C.R.No.191/06

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B. CIVIL REVISION PETITION NO.191/2006

Dinesh Chandra Jain

Vs.

M/s. Raliz India Limited

DATE OF ORDER :: 21/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Jinesh Jain, for petitioner

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Instant revision petition has been filed by the plaintiff-petitioner against the order dated 5th October, 2006 whereby the application filed by the respondent-defendant under O.9 R.13 CPC was allowed by the learned trial Judge.

Plaintiff-petitioner filed a suit on 4th January, 2002 for recovery of sum of Rs.3,99,700/- against the non-petitioner-defendant. The defendant No.1 as alleged was duly served, but no one appeared on his behalf on the first date of hearing after service on 10th April, 2002 and since service could not be made effected upon defendant No.2, as such, further proceedings continued with respect to service upon defendant No.2. Pending thereon the plaintiff withdrew his claim against defendant No.2 on 6th August, 2002 which was accepted by the learned trial Judge and accordingly, ex-parte decree was passed against the defendant No.1 on 21st July, 2003. Immediately, after service of summon in execution, an application was filed by the non-petitioner-defendant on 4th December, 2003 under O.9 R.13 CPC for setting